

Exhibit B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

JOSEPH L. FOWLER, SR.,)
Plaintiff,)
VS.) CAUSE NO. 1:13-CV-515
TIMBER ROCK RAILROAD,)
L.L.C.,)
Defendant.)

ORAL DEPOSITION OF
DOUGLAS JENSEN MARSHALL

March 19, 2014

ORAL DEPOSITION OF DOUGLAS JENSEN MARSHALL, produced as a witness at the instance of the PLAINTIFF, and duly sworn, was taken in the above-styled and numbered cause on March 19, 2014, from 9:23 a.m. to 10:52 a.m., before Gina Medley, RPR, CSR No. 2379, in and for the State of Texas, reported by machine shorthand, at the offices of Nell McCallum & Associates, Inc., 2615 Calder Avenue, Suite 111, Beaumont, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

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1 many hours of classroom time.

2 Q. Oh, okay. Okay. So, on the meeting on
3 February the 20th, 2013, was it just you and Mr. Fowler
4 present?

5 A. Yes, ma'am.

6 Q. Okay. And that's when you told him you had to
7 take his certification back?

8 A. Yes, ma'am.

9 Q. It's an actual tangible card?

10 A. Yes, ma'am.

11 Q. Okay. And, so, you explained to him why you
12 were taking it?

13 A. Yes, ma'am.

14 Q. Okay. And that was because he was operating
15 without a -- a warrant, right?

16 A. He voided his warrant.

17 Q. Warrant?

18 A. That's right.

19 Q. Okay. So, at some point during that meeting,
20 that's when you filled out the revocation paperwork?

21 A. Yes, ma'am.

22 Q. Okay. So, after you-all filled out the
23 revocation paperwork, do you recall what happened after
24 that?

25 A. He asked me about the hearing for the following

1 day, of what was going to happen, if he was going to get
2 fired? I stated to him that I did not know.

3 Q. Okay. Did he respond?

4 A. He just kept wondering if he was going to get
5 fired.

6 Q. Okay. And you just kept repeating that you
7 didn't know?

8 A. Yes, ma'am. I told him I did not know.

9 Q. Okay. And, so, then what happened after you
10 repeated that you didn't know if he was going to be
11 terminated or not?

12 A. I just told him that the situation was not
13 good, with the seriousness of the violation.

14 Q. What did you mean by wasn't "good"?

15 A. Just a bad situation.

16 Q. Why is that?

17 A. Could have killed somebody.

18 Q. Okay. So, after you explained to him it's not
19 good, just a bad situation, how did he respond?

20 A. I don't know how -- he didn't really say much,
21 just kept wondering what they was going to do to him.

22 Q. Okay.

23 A. And I stated to him that he had options if he
24 wanted them; it was totally up to him.

25 Q. What options did you explain that he had?

1 A. I told him he could go to the hearing or he
2 could resign and does not go on his work record; but it
3 was totally his choice, whatever he wanted to do.

4 Q. Okay. So, you told him it was not good. It's
5 a bad situation. He could go to the hearing or resign
6 and it wouldn't go on his work record?

7 A. I told him he had options, if he wanted to
8 resign or he could go to the hearing.

9 Q. Okay. What -- what work record are you
10 referring to?

11 A. His employee file, his safety record.

12 Q. Is this a record that anybody has access to?

13 A. They normally could request them. If he went
14 to another company, they could request his file, his
15 engineer's file.

16 Q. Did you encourage him to do one thing or the
17 other?

18 A. No, ma'am.

19 Q. So, at what point did he say, "I'm going to
20 resign"?

21 A. Probably about five minutes after, he said he
22 would go ahead and just resign.

23 Q. Okay. And at that point, how did you respond
24 when he said, "I'm just going to resign"?

25 A. He asked what he needed to do.